reportedly said, "every judge should make declaration of all assets in the form of real estate or investments held in their names, in the name of their spouses or any other person dependent on them, to the Chief Justice";

(b) if so, the reaction of Government thereto; and

(c) whether Government proposes to bring forward the Judges Inquiry Bill, 2006, in this regard, during the winter session of Parliament?

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI K. VENKATAPATHY): (a) Yes, Sir.

(b) and (c) The Judges (Inquiry), Bill, 2006, which *inter-alia* provided for setting up of a National Judicial Council to probe into the allegations of misconduct against the Judges, was introduced in the Lok Sabha on 19.12.2006. The Bill was referred to the Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice which has since given its Report. The Report of the Standing Committee is being examined.

Exemption to retired judges from enquiry against misconduct

662. SHRI RAMDAS AGARWAL: Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether Government proposes to exempt retired judges of the Supreme Court and High Courts from any probe into the allegations of misconduct against them during their tenures;

(b) whether this matter was referred by Government to a panel of Members of Parliament who are reportedly against shield for ex-judges;

(c) if so, the reaction of Government thereto; and

(d) whether Government proposes to bring forward the Judges Inquiry Bill, 2006, which was introduced in Parliament last year, during the Winter Session?

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI K. VENKATAPATHY): (a) to (d) The Judges (Inquiry) Bill, 2006, which *inter-alia* provided for setting up of a National Judicial Council to probe into the allegations of misconduct against the judges, was introduced in the Lok Sabha on 19.12.2006. The Bill was referred to the Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice which has since given its Report. The Report of the Standing Committee is being examined.

Complaints against judges

†663. SHRI JAI PARKASH AGGARWAL: Will the Minister of LAW AND JUSTICE be pleased to state:

(a) the type of complaints received during the last five years and till date against the judges of Supreme Court and High Courts; and

(b) the details of main recommendations of the Law Commission regarding the investigation of these complaints against the judges of these courts?

†Original notice of the question was received in Hindi.

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI K. VENKATAPATHY): (a) The Chief Justice of India has competence to receive and deal with complaints relating to the conduct of the Judges of the Supreme Court and the conduct of the Chief Justices of the High Courts. Similarly, the Chief Justice of the High Court is competent to receive and deal with complaints against the Judges of his High Court. In this regard no statistics is being maintained.

(b) A Statement containing the main recommendations of the Law Commission in their 195th Report is enclosed.

Statement

Main Recommendations of Law Commission in their 195th Report

The Law Commission in their 195th Report has made the following main recommendations:

(a) A clear distinction has to be drawn between a 'reference procedure' as envisaged in the 1968 Act and the 'complaint procedure' as recommended in the Bill of 2005. A new definition of these terms has been proposed.

(b) There should be a clear delineation of the different stages of the entire process of removal of a judge on a 'complaint procedure'. The procedure being quasi-judicial as held by the Justice Sawant Committee, the different stages viz., the complaint/ allegations, preliminary investigation by the Judicial Council, framing of charges on the basis of the allegations, and inquiry has to be clearly spelt out in the proposed Bill.

(c) There is need to incorporate a definition of the words 'misbehaviour' and 'incapacity' so as to take in serious types of misbehaviour as also deviant or bad behaviour.

(d) Violation of the Code of Conduct should also be treated as misbehaviour. So far as publication of Code of Conduct is concerned, the Judicial Council should publish the same in the Gazette of India and until such publication the 'Restatement of Values of Judicial Life' as per the Resolution of the Supreme Court dated May 7, 1997 shall hold good. The Council would also be delegated with power to amend the Code of Conduct from time to time.

(e) There should be a definition of the word 'proved' as 'proof beyond reasonable doubt' (as observed by the Justice Sawant Committee). In this context the word 'substantiated' used in the Bill has to be omitted.

(f) As regards the complaint procedure, a 'whistleblower's provision has to be incorporated in the proposed Bill of 2005. If a complainant under the 'complaint procedure' is apprehensive of reprisals, he will have the right to request the Judicial Council that his name is kept confidential. The recommendations made by the Law Commission for protection of 'whistle blowers' in its 179th Report, are relevant in this context and have to be adopted.

(g) There should be confidentiality of the entire complaint proceedings, starting from the complaint, till 'minor measures' are imposed by the Council or in case the Council recommends removal till its recommendation as to removal is placed in the Parliament. The complainant and the witnesses should also be prohibited from giving publicity about the allegations in the complaint, name of the complainant or witness or the name of the Judge. Any breach of confidentiality should amount to an offence. It is further recommended that the above provisions as to confidentiality shall be notwithstanding anything contained in the Right to Information Act, 2005.

(h) The proposed Bill should be allowed to take into consideration allegations of

'misbehaviour' which would have occurred within a period of two years preceding from the commencement of the new Law. Subsequently, after the submission of the Report, Chairman of the Law Commission has written a letter to the Law Minister suggesting that the Government may take a view as to whether the Act should apply prospectively only to future misbehaviour after the commencement of the Act and also to provide a limitation that no complaint should be filed after six months from the occurrence of the act or conduct constituting the misbehaviour. A complaint shall not lie in respect of any act or conduct of any Judge who has demitted his office.

(i) The Judicial Council of five Judges shall consist of the Chief Justice of India, two senior most judges of the Supreme Court and, two senior most Chief Justices of the High Courts.

Cases pending in High Courts and Supreme Court

664. SHRI ABU ASIM AZMI: Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether it is a fact that more than hundred civil and criminal cases are lying pending in the High Courts and Supreme Court for more than 20-25 years;

(b) if so, the number of such cases pending in each High Court and Supreme Court alongwith the reasons therefor; and

(c) the steps being taken/instructions being issued go the courts to finalise the cases at the earliest?

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI K. VENKATAPATHY): (a) and (b) As on 1.11.2007, there were 24 cases pending in the Supreme Court for more than 20 years out of which 15 years were pending for more than 25 years. There are no cases pending for more than 20 years in the High Courts of Sikkim and Himachal Pradesh. There are 112 cases pending for more than 20 years in the High Court of Uttarakhand as on 22.11.2007 and 1121 cases pending in the High Court of Delhi for more than 20 years as on 30.6.2007. Information on the details in respect of the other High Courts and the reasons for their pendency is being collected and will be laid on the Table of the House.

(c) Finalization of the cases in the courts falls within the exclusive domain of the judiciary. Government has, in its efforts to facilitate disposal of cases in the superior courts, *inter alia*, taken the following steps:

(i) agreed to increase the strength of Judges of the High Courts by 152,

(ii) vacancies in the superior courts are filled up expeditiously;

(iii) implementation of a Plan scheme of computerization of the judiciary and upgradation of the computer infrastructure in the Supreme Court and the High Courts.

Attestation powers to judicial officers

665. SHRI DHARAM PAL SABHARWAL: Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether it is a fact that judicial officers, including magistrates have been given powers to attest documents and other papers;